IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12080 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHARATBHAI @ RAKESH PIDIYABHAI SANGADIA

Versus

DIST MAGISTRATE

Appearance:

MS BANNA DATTA for Petitioner

GOVERNMENT PLEADER for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/02/2001

ORAL JUDGEMENT

#. Challenge has been made by petitioner in this petition who is detained under the Prevention of Antisocial Activities Act, 1985 (hereinafter referred to as `Act') as a `dangerous person' to the order of the District Magistrate, Dahod, dated 24.2.1998 passed in

exercise of powers conferred under Section 3(2) of the Act.

#. The learned counsel or the petitioner raised manifold contentions challenging the order impugned in this special civil application of the detaining authority, but as this matter deserves acceptance only on one ground, no need to refer, discuss and give finding on all other contentions. This course is adopted otherwise to save precious and valuable time of the court which is facing serious problem of overcoming pending matters.

#. Reply to the special civil application has been filed in this matter on behalf of the detaining authority.

#. In paragraph-20 of the special civil application the petitioner grievanced that the detaining authority has failed to supply bail applications and bail orders of C.R. No.124/94 and C.R. No.141/97. Reply to paragraph-20 of the special civil application has been given by respondent - detaining authority and it reads as under:

> 13. With reference to para 20 of the petition, I say that all relevant documents referred to and relied upon by me for passing the order of detention against the detenu including the documents relating to the cases registered against him from page 1 to 25 from page 0.1 to 0.15 along with the grounds of detention, have been supplied to the detenu. Therefore the contention raised by the detenu in this para is not tenable at law.

#. The learned counsel for the respondents fairly admitted that the documents namely, the bail application and bail orders of aforesaid two C.R. numbers were not given to the petitioner. It is also not borne out from paragraph-13 of the reply of the detaining authority that copies of those two documents were given to the petitioner. It is the affidavit filed by the District Magistrate and it is expected from him to give specific, clear and definite reply to the averments made by petitioner in the special civil application. This approach of the detaining authority not to give reply in the proper form is wholly unacceptable from him. He being a detaining authority is expected to know basic principles of pleadings in the court. When a specific plea has been made, reply to it has to be given specifically and not by confusing things. It is a simple

matter where grievance has been made by petitioner that copies of those two documents were not given. Instead of giving specific reply, he has given out irrelevant things in the reply. The documents namely bail application and the order made thereon are vital and relevant documents to the controversy and non supply thereof certainly results in deprival of valuable and effective right of making representation as guaranteed to the petitioner under Article 22(5) of the Constitution against the detention order.

#. In the result, this petition succeeds and the same is allowed and the order of detention of the petitioner dated 24.2.1998 is quashed and set aside. The petitioner - Bharatbhai @ Rakesh Pidiyabhai Sangadia, the detenu, at present at Rajkot District Jail, Rajkot, be set at liberty forthwith, if he is not required in any other case. Rule is made absolute.

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(sunil)